



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R04-OAR- 2015-0247; FRL-9929-84-Region 4]**

#### **Approval and Promulgation of Implementation Plans; Mississippi; Memphis, TN-MS-AR Emissions Inventory for the 2008 8-Hour Ozone Standard**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve the portion of the state implementation plan (SIP) revision submitted by the State of Mississippi, through the Mississippi Department of Environmental Quality (MDEQ) on January 14, 2015, that addresses the base year emissions inventory requirements for the State's portion of the Memphis, Tennessee-Mississippi-Arkansas (Memphis, TN-MS-AR) 2008 8-hour ozone national ambient air quality standards (NAAQS) nonattainment area (hereafter referred to as the "Memphis, TN-MS-AR Area" or "Area"). A base year emissions inventory is required for all ozone nonattainment areas. The Area is comprised of Shelby County in Tennessee, Crittenden County in Arkansas, and a portion of DeSoto County in Mississippi. EPA will take action on the emissions inventories for the Tennessee and Arkansas portions of the Area in separate actions.

**DATES:** This direct final rule is effective [Insert date 60 days after date of publication in the Federal Register] without further notice, unless EPA receives adverse comment by [Insert date 30 days after date of publication in the Federal Register]. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2015-0247, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [R4-ARMS@epa.gov](mailto:R4-ARMS@epa.gov).
3. Fax: (404) 562-9019.
4. Mail: "EPA-R04-OAR-2015-0247," Air Regulatory Management Section, (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, Air Regulatory Management

Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R04-OAR-2015-0247. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov) or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at

<http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Bell can be reached at (404) 562-9088 and via electronic mail at [bell.tiereny@epa.gov](mailto:bell.tiereny@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436. Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. *See* 40 CFR 50.15. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in appendix I of part 50.

Upon promulgation of a new or revised NAAQS, the Clean Air Act (CAA or Act) requires EPA to designate as nonattainment any area that is violating the NAAQS, based on the three most recent years of ambient air quality data at the conclusion of the designation process. The Memphis, TN-MS-AR Area was designated nonattainment for the 2008 8-hour ozone NAAQS on May 21, 2012 (effective July 20, 2012), using 2008-2010 ambient air quality data. *See* 77 FR 30088. At the time of designation, the Memphis, TN-MS-AR Area was classified as a marginal nonattainment area for the 2008 8-hour ozone NAAQS. On March 6, 2015, EPA finalized a rule entitled "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements" (SIP Requirements Rule) that establishes the requirements that state, tribal, and local air quality management agencies must meet as they

develop implementation plans for areas where air quality exceeds the 2008 8-hour ozone NAAQS.<sup>1</sup> *See* 80 FR 12264. This rule establishes nonattainment area attainment dates based on Table 1 of section 181(a) of the CAA, including an attainment date three years after the July 20, 2012, effective date, for areas classified as marginal for the 2008 8-hour ozone NAAQS. Therefore, the attainment date for the Memphis, TN-MS-AR Area is July 20, 2015.

Based on the nonattainment designation, Mississippi was required to develop a nonattainment SIP revision addressing certain CAA requirements. Specifically, pursuant to CAA section 182(a)(1), Mississippi was required to submit a SIP revision addressing emissions inventory requirements.

Ground level ozone is not emitted directly into the air, but is created by chemical reactions between oxides of nitrogen (NO<sub>x</sub>) and volatile organic compounds (VOC) in the presence of sunlight. Emissions from industrial facilities and electric utilities, motor vehicle exhaust, gasoline vapors, and chemical solvents are some of the major sources of NO<sub>x</sub> and VOC. Section 182(a)(1) of the CAA requires states with areas designated nonattainment for the ozone NAAQS to submit a SIP revision providing a comprehensive, accurate, and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area. NO<sub>x</sub> and VOCs are the relevant pollutants because they are the precursors of ozone.

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<sup>1</sup> The SIP Requirements Rule addresses a range of nonattainment area SIP requirements for the 2008 ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology, reasonably available control measures, major new source review, emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. The rule also revokes the 1997 ozone NAAQS and establishes anti-backsliding requirements.

On January 14, 2015, Mississippi submitted a SIP revision containing a base year emissions inventory for its portion of the Memphis, TN-MS-AR Area. EPA is now taking action to approve the portion of the SIP revision addressing the emissions inventory as meeting the requirements of sections 110 and 182(a)(1) of the CAA. More information on EPA's analysis of Mississippi's emissions inventory is provided below.

## **II. Analysis of the State's Base Year Emissions Inventory**

As discussed above, section 182(a)(1) of the CAA requires states to submit a comprehensive, accurate, and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in each ozone non-attainment area. The section 182(a)(1) base year inventory is defined in the SIP Requirements Rule as "a comprehensive, accurate, current inventory of actual emissions from sources of VOC and NO<sub>x</sub> emitted within the boundaries of the nonattainment area as required by CAA section 182(a)(1)." *See* 40 CFR 51.1100(bb). The inventory year must be selected consistent with the baseline year for the RFP plan as required by 40 CFR 51.1110(b),<sup>2</sup> and the inventory must include actual ozone season day emissions as defined in 40 CFR 51.1100(cc)<sup>3</sup> and contain data elements consistent with the detail required by 40 CFR part 51, subpart A. *See* 40 CFR 51.1115(a), (c), (e). In addition, the point source emissions included in the inventory must be reported according to the point source emissions thresholds of the Air Emissions Reporting Requirements (AERR) in 40 CFR part 51, subpart A.

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<sup>2</sup> 40 CFR 51.1110(b) states that at the time of designation for the 2008 ozone NAAQS the baseline emissions inventory shall be the emissions inventory for the most recent calendar year for which a complete triennial inventory is required to be submitted to EPA under the provisions of subpart A of the part. States may use an alternative baseline emissions inventory provided the state demonstrates why it is appropriate to use the alternative baseline year, and provided that the year selected is between the years 2008 to 2012.

<sup>3</sup> "Ozone season day emissions" is defined as an average day's emissions for a typical ozone season work weekday. The state shall select, subject to EPA approval, the particular month(s) in the ozone season and the day(s) in the work week to be represented, considering the conditions assumed in the development of RFP plans and/or emissions budgets for transportation conformity. *See* 40 CFR 51.1100(cc).

40 CFR 51.1115(d).

Mississippi selected 2011 as the base year for the emissions inventory which is the year corresponding with the first triennial inventory under 40 CFR part 51, subpart A. This base year is one of the three years of ambient data used to designate the Area as a nonattainment area and therefore represents emissions associated with nonattainment conditions. The emissions inventory is based on data developed and submitted by MDEQ to EPA's 2011 National Emissions Inventory (NEI), and it contains data elements consistent with the detail required by 40 CFR part 51, subpart A.<sup>4</sup>

Mississippi's emissions inventory for its portion of the Area provides 2011 emissions data for NO<sub>x</sub> and VOCs for the following general source categories: point, nonpoint (excluding biogenic sources), nonroad mobile, and onroad mobile. A detailed discussion of the inventory development is located in Appendix V to Mississippi's January 14, 2015, submittal which is provided in the docket for this action. The table below provides a summary of the emissions inventory.

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<sup>4</sup> Data downloaded from the EPA EIS from the 2011 NEI was subjected to quality assurance procedures described under quality assurance details under *2011 NEI Version 1 Documentation* located at <http://www.epa.gov/ttn/chief/net/2011inventory.html#inventorydoc>. The quality assurance and quality control procedures and measures associated with this data are outlined in the State's EPA-approved Emission Inventory Quality Assurance Project Plan.



**Table 1. 2011 Point, Nonpoint, Nonroad Mobile, and Onroad Mobile Emissions for the Mississippi Portion of the Memphis, TN-MS-AR Area (tons per summer day)**

County	Point		Nonpoint (excluding biogenic sources)		Non-Road Mobile		On-Road Mobile		Total	
	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC
DeSoto*	1.533	0.817	1.267	7.062	2.054	1.658	8.969	5.178	13.847	14.734

\*Emissions reported for the nonattainment portion of the county.

The emissions reported for DeSoto County reflect the emissions for only the nonattainment portion of the county. The inventory contains point source emissions data for facilities located within the Mississippi portion of the Area based on Geographic Information Systems (GIS) mapping. For the remaining emissions categories, emissions for the Mississippi portion of the Area were determined based on the population of the nonattainment portion of DeSoto County. More details on the emissions inventory for individual source categories is provided below and in Appendix V to Mississippi's SIP submittal.

Point sources are large, stationary, identifiable sources of emissions that release pollutants into the atmosphere. The point source emissions inventory for Mississippi's portion of the Memphis, TN-MS-AR Area was reported from the 2011 NEI data. These sources are required to submit inventory data according to the AERR. The point source emissions data meets the point source emissions thresholds of 40 CFR part 51, subpart A.

Nonpoint sources are small emission stationary sources which, due to their large number, collectively have significant emissions (e.g., dry cleaners, service stations). Emissions for these

sources were calculated using established factors provided by EPA. These emissions were estimated at the county-level. Mississippi calculated average summer day nonpoint source emissions by summing the nonpoint emissions during the total five summer months (May, June, July, August and September) in 2011 and dividing by the total by the number of 2011 summer days.

On-road mobile sources include vehicles used on roads for transportation of passengers or freight. For on-road mobile sources, Mississippi used the 2011 emissions inventory developed by the Memphis Urban Area Metropolitan Planning Organization with input from MDEQ and others as part of the 2040 DeSoto County Nonattainment Area Moves Air Quality Conformity Demonstration. The inventory was created using EPA's Motor Vehicle Emissions Simulator (MOVES)-2010(b) mobile model to estimate emissions.<sup>5</sup> County level on-road modeling was conducted using county-specific vehicle population, and other local data. Mississippi developed its on-road emissions inventory using the State's MOVES2010b modeling results for each ozone nonattainment county. Mississippi developed its inventory according to the current EPA emissions inventory guidance for on-road mobile sources.<sup>6</sup>

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<sup>5</sup> Mississippi used EPA's Motor Vehicle Emissions Simulator (MOVES) version 2010b. *According to the Emissions Inventory Guidance for Ozone [ & PM] NAAQS Implementation and Regional Haze Regulations*, all states but California, for on-road mobile emissions should be estimated with the latest EPA on-road mobile model, MOVES, following the latest guidance available at <http://www.epa.gov/otaq/models/moves/index.htm#sip>.

<sup>6</sup> This guidance includes: *Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations*, EPA-454/R-05-001 (August 2005, updated November 2005); *Policy Guidance on the Use of MOVES2010 for State Implementation Plan Development, Transportation Conformity, and Other Purposes*, EPA-420-B-09-046 (December 2009); and *Technical Guidance on the Use of MOVES2010 for Emission Inventory Preparation in State Implementation Plans and Transportation Conformity*, EPA-420-B-10-023 (April 2010).

Non-road mobile sources include vehicles, engines, and equipment used for construction, agriculture, recreation, and other purposes that do not use roadways (e.g., lawn mowers, construction equipment, railroad locomotives, and aircraft). The emissions from non-road mobile sources other than rail yards and airports were derived from 2011 NEI. EPA estimated non-road emissions for the 2011 NEI using the NONROAD model. Mississippi developed its inventory according to the current EPA emissions inventory guidance for non-road mobile sources.<sup>7</sup> For the reasons discussed above, EPA has determined that Mississippi's emissions inventory meets the requirements under CAA section 182(a)(1) and the SIP Requirements Rule for the 2008 8-hour ozone NAAQS.

### **III. Final Action**

EPA is approving the portion of the SIP revision submitted by Mississippi on January 14, 2015, that addresses the base year emissions inventory for the Memphis, TN-MS-AR Area. EPA has concluded that this portion of the State's submission meets the requirements of sections 110 and 182 of the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective [Insert date 60 days after date of publication in the Federal Register] without further notice unless the Agency receives adverse comments by [Insert date 30 days after date of publication in the Federal Register].

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<sup>7</sup> This guidance includes: *Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources*, EPA-450/4-81-026d (July 1991).

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All adverse comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on [Insert date 60 days after date of publication in the Federal Register] and no further action will be taken on the proposed rule.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the Agency may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication in the Federal Register]. Filing a petition for reconsideration by the

Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 18, 2015.

Heather McTeer Toney,  
Regional Administrator,  
Region 4.

40 CFR part 52 is amended as follows:



## PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### Subpart Z—Mississippi

2. Section 52.1270(e) is amended by adding a new entry for “2011 Base Year Emissions Inventory for the Mississippi portion of the Memphis, TN-MS-AR 2008 Ozone NAAQS Nonattainment Area” at the end of the table to read as follows:

#### §52.1270 Identification of plan.

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(e) \* \* \*

#### EPA-Approved Mississippi Non-Regulatory Provisions

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
**	**	*	*	*
2011 Base Year Emissions Inventory for the Mississippi portion of the Memphis, TN-MS-AR 2008 Ozone NAAQS Nonattainment Area	DeSoto County portion of Memphis, TN-AR-MS 2008 8-hour Ozone Nonattainment Area	1/14/2015	[Insert date of publication in <u>Federal Register</u> ] [Insert citation of publication]	

[FR Doc. 2015-16080 Filed: 7/1/2015 08:45 am; Publication Date: 7/2/2015]